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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF WASHINGTON

14 MARIA ALONSO and MARIA
15 RODRIGUEZ,

16 Plaintiffs,

17 vs.

18 ANDALUZ NIGHT CLUB CORP., a
19 Washington Corporation, and BLANCA
20 FLOR CUEVAS and JOSE
21 GUADALUPE CUEVAS, individually
22 and as a marital community,

23 Defendants.

No.

**COMPLAINT FOR DAMAGES –
WAGE CLAIM**

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I. INTRODUCTION

1. Plaintiffs are former employees of the Andaluz Night Club Corp., which operates a restaurant, bar and night club, in Quincy, Washington. They seek compensation for failure to pay overtime wages and failure to provide paid rest and meal periods during 2006, 2007, and 2008.

2. Plaintiffs bring this action for damages for violations of their rights under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.*, and Washington State wage and hour laws.

II. JURISDICTION AND VENUE

3. The Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b) over Plaintiffs' Fair Labor Standards Act, 29 U.S.C. §§ 201-219 ("FLSA"), claims.

4. The Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a) over Plaintiffs' state law claims because, as described below, these state law claims form part of the same case or controversy under Article III of the United States Constitution.

5. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and (c).

III. PARTIES

1 6. Plaintiff Maria Alonso was an adult resident of Grant County,
2 Washington.

3 7. Plaintiff Maria Alonso was an employee of the Defendants within the
4 meaning of 29 U.S.C. § 203(e) of the FLSA.
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6 8. Plaintiff Maria Rodriguez is an adult resident of Grant County,
7 Washington.

8 9. Plaintiff Maria Rodriguez was an employee of the Defendants within
9 the meaning of 29 U.S.C. § 203(e) of the FLSA.
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11 10. Defendant Andaluz Night Club, Inc., was incorporated as a
12 Washington corporation on January 8, 2007.

13 11. Defendant Andaluz Night Club, Inc., operates the Andaluz restaurant,
14 bar, and night club in Quincy, Grant County, Washington.

15 12. Defendants Blanca Flor Cuevas and Defendant Jose Guadalupe
16 Cuevas were husband and wife.
17

18 13. Defendant Jose Guadalupe Cuevas died on or about December 22,
19 2007.
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1 14. Prior to incorporation, the Andaluz restaurant, bar, and night club was
2 owned by Defendants Blanca Flor Cuevas and Jose Guadalupe Cuevas as a sole
3 proprietorship.
4

5 15. Prior to incorporation, Defendants Blanca Flor Cuevas and Jose
6 Guadalupe Cuevas owned, operated, and managed the Andaluz restaurant, bar, and
7 night club. and acted directly on the businesses' interest and had control with
8 regard to the wage and hour practices at issue in this lawsuit and were therefore
9 Plaintiffs' employers for purposes of Plaintiffs' federal and state claims.
10

11 16. After incorporation, Defendants Blanca Flor Cuevas and until his
12 death Jose Guadalupe Cuevas owned, operated, and managed the Andaluz Night
13 Club, Inc., and acted directly on the businesses' interest, and had control with
14 regard to the wage and hour practices at issue in this lawsuit and were therefore
15 Plaintiffs' employers for purposes of Plaintiffs' federal and state claims.
16

17 17. At all relevant times, Defendants Blanca Flor Cuevas, Jose Guadalupe
18 Cuevas, and Andaluz Night Club, Inc., was an enterprise engaged in commerce or
19 in the production of goods for commerce as defined by 29 U.S.C. § 203(s)
20

21 IV. FACTS 22 23

1 18. Plaintiff Maria Alonso worked as an employee of the Andaluz
2 restaurant, bar, and night club during 2006, 2007, and through November 2008.

3 19. During the day, Plaintiff Maria Alonso worked as a cook preparing
4 food and setting up plates for service, and other tasks.
5

6 20. During the night, Plaintiff Maria Alonso worked as a cook / waitress
7 for a common buffet by cooking food and chopping vegetables, setting food out in
8 warming trays, maintaining and cleaning the buffet area, and performing other
9 tasks.
10

11 21. Plaintiff Maria Rodriguez worked as an employee of the Andaluz
12 restaurant, bar, and night club during 2007 and through November, 2008.

13 22. During the day, Plaintiff Maria Rodriguez worked as a waitress
14 serving food to customers and other tasks.
15

16 23. During the night, Plaintiff Maria Rodriguez worked as a bartender
17 serving alcohol to customers and other tasks.

18 24. Defendants paid Plaintiff Maria Alonso bi-monthly by paycheck for
19 88 or 96 hours of work for each pay period.

20 25. Defendants paid Plaintiff Maria Rodriguez bi-monthly by paycheck
21 for 96 hour of work for each pay period.
22
23

1 26. Plaintiffs normally worked more than 88 or 96 hours per pay period.

2 27. For hours worked in excess of 88 or 96 hours per pay period,
3 Defendants paid Plaintiffs in cash not accounted for on Plaintiffs' paychecks.
4

5 28. Plaintiffs normally worked more than forty hours per week.

6 29. For all hours the Plaintiffs worked in excess of forty hours per week,
7 Defendants paid Plaintiffs the regular hourly rate of pay and not one and one-half
8 times the regular rate at which they were employed.
9

10 30. Throughout the employment of Plaintiff Maria Alonso, Defendants
11 did not allow or compensate Plaintiff Maria Alonso for rest periods.

12 31. Throughout the employment of Plaintiff Maria Rodriguez, Defendants
13 did not allow or compensate Plaintiff Maria Rodriguez for rest periods.

14 32. Throughout the employment of Plaintiff Maria Alonso, Defendants
15 did not compensate Plaintiff Maria Alonso for meal periods during which she was
16 not allowed relief from work.
17

18 33. Throughout the employment of Plaintiff Maria Rodriguez, Defendants
19 did not compensate Plaintiff Maria Rodriguez for meal periods during which she
20 was not allowed relief from work.
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1 34. Defendants knew that Plaintiffs were entitled to overtime
2 compensation or showed reckless disregard as to whether the Plaintiffs were
3 entitled to overtime compensation.
4

5 35. As a result of the failure of Defendants to pay overtime and rest
6 period wages, Plaintiff Maria Alonso and Plaintiff Maria Rodriguez have suffered
7 economic damages.
8

9 **V. CAUSES OF ACTION**

10 **FIRST CLAIM – FAIR LABOR STANDARDS ACT** 11 **OVERTIME VIOLATION**

12 33. Plaintiffs were employed by Defendants in commerce, production of
13 goods for commerce and in an enterprise engaged in commerce where goods were
14 handled in commerce within the meaning of 29 U.S.C.A. §§ 203(b), 206(a), and
15 207(a).
16

17 34. Defendants Blanca Flor Cuevas and Jose Guadalupe Cuevas were
18 Plaintiffs' employers within the meaning of 29 U.S.C. § 203(d), and are liable for
19 the FLSA violations alleged herein.
20

21 35. Defendants failed to pay Plaintiffs overtime pay for work in excess of
22 forty hours per week in violation of 29 U.S.C. § 207(a), giving rise to a cause of
23

1 action under 29 U.S.C. § 216(b).

2 36. As a consequence of the Defendants' violations of 29 U.S.C. § 207(a),
3 the Plaintiffs are entitled to recover their unpaid overtime wages, plus an additional
4 equal amount in liquidated damages, pursuant to 29 U.S.C. § 216(b).
5

6 **SECOND CLAIM – MINIMUM WAGE ACT VIOLATION**

7 37. Plaintiffs were Defendants' employees under RCW chapter 49.46.

8 38. Defendants violated RCW 49.46.130 by failing to pay overtime to
9 Plaintiffs for work in excess of forty hours per week.
10

11 39. Defendants' violations of RCW chapter 49.46 were willful and made
12 with the intent to deprive plaintiffs of wages and thus give rise to exemplary
13 damages under RCW 49.52.050 and RCW 49.52.070.
14

15 **THIRD CLAIM – REST / MEAL PERIOD VIOLATION**

16 40. Defendants violated WAC 296-126-092 and RCW 49.12 by not
17 allowing or compensating Plaintiffs for rest periods after three hours of working
18 time and each 4 hours worked.
19

20 41. Defendants violated WAC 296-126-092 and RCW 49.12 by not by
21 not providing paid meal periods of at least 30 minutes as required by regulation
22 and statute.
23

1 42. Plaintiffs are entitled to damages for failure to provide paid rest and/or
2 meal periods.

3 43. Defendants' violations of RCW chapter 49.12 were willful and made
4 with the intent to deprive plaintiffs of wages and thus give rise to exemplary
5 damages under RCW 49.52.050 and RCW 49.52.070.
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7
8 **VI. PRAYER FOR RELIEF**

9 Plaintiffs respectfully request that this Court:

- 10 a. Award economic damages to the Plaintiffs for overtime hours in excess of
11 forty hours per week worked, and for uncompensated rest periods, plus
12 prejudgment interest;
13 b. Award an additional equal amount as liquidated damages under FLSA, 29
14 U.S.C. § 216(b)), or prejudgment interest, whichever is greater,
15 c. Award exemplary damages under the Minimum Wage Act, RCW 46.52.070
16 for a willful violation of a wage statute;
17 d. Award reasonable attorney fees, expenses, and costs pursuant to 29 U.S.C.
18 § 216(b) and RCW 49.46.090, RCW 46.48.030, RCW 49.52.050, and RCW
19 49.52.070; and
20 e. Award such other and further relief as this Court deems just and proper.
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1 SIGNED this 27th day of April, 2009.

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10 s/ David N. Mark /by dtd

11 David N. Mark, WSBA #13908

12 Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2009 I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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